



UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 18 2006

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

U.S. APPLICATION NUMBER

10/568,841

FIRST NAMED APPLICANT

Yves Auberson

ATTY. DOCKET NO.

33284

INTERNATIONAL APPLICATION NO.

PCT/EP04/09225

I.A. FILING DATE

08/17/2004

PRIORITY DATE

08/18/2003

001095

NOVARTIS

CORPORATE INTELLECTUAL PROPERTY

ONE HEALTH PLAZA 104/3

EAST HANOVER, NJ 07936-1080

CONFIRMATION NO. 4681

371 FORMALITIES LETTER



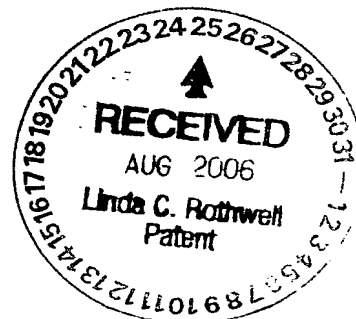
\*OC000000020006966\*

Date Mailed: 08/21/2006

### NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 02/17/2006
- Copy of the International Search Report filed on 02/17/2006
- Preliminary Amendments filed on 02/17/2006
- Oath or Declaration filed on 02/17/2006
- U.S. Basic National Fees filed on 02/17/2006
- Priority Documents filed on 02/17/2006
- Specification filed on 02/17/2006
- Claims filed on 02/17/2006
- Abstracts filed on 02/17/2006
- Drawings filed on 02/17/2006



The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it:
  - is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.
- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

## SUMMARY OF FEES DUE:

Total additional fees required for this application is \$130 for a Large Entity:

- **\$130 Surcharge.**

- This application clearly fails to comply with the requirements of 37 CFR 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", **as well as an amendment specifically directing its entry into the application.** Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.
- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

**For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:**

- For Rules Interpretation, call (571) 272-0951
- For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.
- Send e-mail correspondence for Patentin Software Program Help @ [ebc@uspto.gov](mailto:ebc@uspto.gov)

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

KAREN R MCLEAN

---

Telephone: (703) 308-9140 EXT 214

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/568,841	PCT/EP04/09225	33284

FORM PCT/DO/EO/905 (371 Formalities Notice)



CASE 33284-US-PCT  
**IAP15 Rec'd PCT/PTO 13 SEP 2006**

FILING BY "EXPRESS MAIL" UNDER 37 CFR 1.10

EV 678113029US  
Express Mail Label Number

September 13, 2006  
Date of Deposit

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE PCT NATIONAL STAGE APPLICATION OF  
AUBERSON ET AL.

INTERNATIONAL APPLICATION NO: PCT/EP2004/009225

FILED: 17 AUGUST 2004

U.S. APPLICATION NO: 10/568,841

35 USC §371 DATE: 17 FEBRUARY 2006

FOR: 3H-PHENOXAZINE DERIVATIVES SUITABLE AS NEAR-INFRARED IMAGING  
AGENTS, PREPARATION AND USE THEREOF

**MS: PCT**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371

Sir:

The Notification of Missing Requirements Under 35 U.S.C. 371 mailed August 21, 2006  
(a copy of which is enclosed) has a shortened statutory time set to expire on October 21, 2006.

In response, applicants now submit an original or copy of a fully executed Declaration  
and Power of Attorney. Please charge the \$130 surcharge fee under 37 CFR §1.16(e) to  
Deposit Account No. 19-0134 in the name of Novartis.

The "Notification of Missing Requirements Under 35 U.S.C. 371" requests that the  
nucleotide and/or amino sequence disclosure comply with the requirements for such a  
disclosure as set forth in 37 CFR 1.821-1.825. However, the present application does not  
contain a nucleotide or amino acid sequence. Therefore it is respectfully requested that this  
requirement be withdrawn from the Notification of Missing Requirements Under 35 U.S.C. 371."

The Commissioner is hereby authorized to charge any additional fees under 37 CFR  
§1.17 which may be required, or credit any overpayment, to Account No. 19-0134 in the name of  
Novartis.

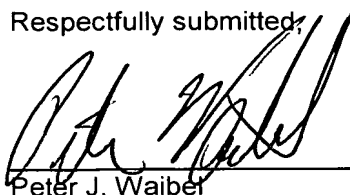
09/18/2006 LLANDGRA 00000048 190134 10568841

01 FC:1617 130.00 DA

A duplicate copy of this letter is provided for charging purposes.

Novartis  
Corporate Intellectual Property  
One Health Plaza, Building 104  
East Hanover, NJ 07936-1080  
(862) 778-7951  
Date: September 13, 2006

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter J. Waiber", is written over a horizontal line.

Peter J. Waiber  
Attorney for Applicants  
Reg. No. 43,228